

SENATE BILL 3436

By Bell

AN ACT to amend Tennessee Code Annotated, Title 4,
relative to the Uniform Administrative Procedures
Act.

WHEREAS, Tennessee law authorizes state agencies to hear appeals resulting from
decisions in contested case hearings; and

WHEREAS, this authority is an inherent conflict that, at the least, presents an
appearance of impropriety, and is a basis for citizens to lose trust in state government; now,
therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-5-315, is amended by deleting the
section in its entirety and by substituting instead the following:

4-5-315.

(a) All reviews of initial orders shall be conducted by an administrative
judge within the administrative procedures division of the office of the secretary
of state.

(b) A petition for appeal from an initial order shall be filed with the
administrative procedures division within fifteen (15) days after entry of the initial
order. The fifteen-day period for a party to file a petition for appeal shall be tolled
by the submission of a timely petition for reconsideration of the initial order
pursuant to § 4-5-317, and a new fifteen-day period shall start to run upon
disposition of the petition for reconsideration. If an initial order is subject both to
a timely petition for reconsideration and to a petition for appeal, the petition for
reconsideration shall be disposed of first.

(c) The petition for appeal shall state its basis.

(d) The administrative judge shall afford each party an opportunity to present briefs and may afford each party an opportunity to present oral argument.

(e) Before rendering a final order, the administrative judge may cause a transcript to be prepared of such portions of the proceeding under review as the administrative judge considers necessary.

(f) The administrative judge may render a final order disposing of the proceeding or may remand the matter for further proceedings with instructions to the person who rendered the initial order. Upon remanding a matter, the administrative judge may order such temporary relief as is authorized and appropriate.

(g) A final order or an order remanding the matter for further proceedings pursuant to this section shall be rendered and entered in writing within sixty (60) days after receipt of briefs and oral argument, unless that period is waived or extended with the written consent of all parties or for good cause shown.

(h) A final order or an order remanding the matter for further proceedings under this section shall identify any difference between such order and the initial order, and shall include, or incorporate by express reference to the initial order, all the matters required by § 4-5-314(c).

(i) The administrative judge shall cause copies of the final order or order remanding the matter for further proceedings to be delivered to each party and to the administrative judge or hearing officer who conducted the contested case.

SECTION 2. Tennessee Code Annotated, Section 4-5-316, is amended by deleting the section in its entirety and by substituting instead the following:

4-5-316.

(a) A party may submit to the agency a petition for stay of effectiveness of an initial order within seven (7) days after its entry unless otherwise provided by statute or stated in the initial order. The agency may take action on the petition for stay, either before or after the effective date of the initial order.

(b) A party may submit to the administrative judge a petition for stay of effectiveness of a final order within seven (7) days after its entry unless otherwise stated in the final order. The administrative judge may take action on the petition for stay, either before or after the effective date of the final order.

SECTION 3. Tennessee Code Annotated, Section 4-5-318, is amended by deleting subsection (f) in its entirety and by substituting instead the following:

(f) Unless a later date is stated in an initial order or a stay is granted, the time when an initial order becomes a final order in accordance with § 4-5-314 shall be as follows:

(1) When the initial order is entered, if administrative review is unavailable; or

(2) Fifteen (15) days after entry of the initial order, if no party has filed a petition for appeal.

SECTION 4. Tennessee Code Annotated, Title 4, Chapter 5, Part 3, is amended by adding the following language as a new, appropriately designated section:

4-5-3__.

(a) All petitions for appeals from initial orders filed after the effective date of this act shall be filed with the administrative procedures division of the office of the secretary of state.

(b) All remaining funds appropriated to agencies for the purpose of conducting appeals pursuant to this part shall be transferred to the administrative procedures division upon the effective date of this act.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.